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404-653-6444**DATE** June 29, 2007**TO****Firm:** MAIL STOP AMENDMENT  
U.S. Patent and Trademark Office**Fax No.:** 571-273-8300**FROM****Name:** Christopher T. Kent  
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**# Pages (incl. this):** 4**Confirmation Copy to Follow:** No**SUBJECT**

In re Application of: Vincent DE LAFORCADE  
Application Serial No. 10/808,568  
Filed: March 25, 2004  
For: COSMETICS PRODUCT  
Attorney Docket No. 05725.0918-01

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By: Christopher T. Kent  
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Enclosed: Response to Restriction and Election of Species Requirements (3 Pages)

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**CENTRAL FAX CENTER****JUN 29 2007****PATENT**  
Customer No. 22,852  
Attorney Docket No. 05725.0918-01**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:	)	
Vincent DE LAFORCADE	)	Group Art Unit: 3733
Application No.: 10/808,568	)	Examiner: David C. Comstock
Filed: March 25, 2004	)	Confirmation No.: 4838
For: COSMETICS PRODUCT	)	

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450**VIA FACSIMILE**

Sir:

**RESPONSE TO RESTRICTION AND ELECTION OF SPECIES REQUIREMENTS**

In an Office Action dated May 29, 2007, the Examiner required an election under 35 U.S.C. § 121 of one of the following four (4) groups of claims:

- I. Claims 96-134, allegedly drawn to "a clothing/compact combination";
- II. Claims 40-95 and 169-224, allegedly drawn to "a business method";
- III. Claims 135-145 and 225-235, allegedly drawn to "a method of making a compact"; and
- IV. Claims 146-150 and 236-248, allegedly drawn to "a method of using an interface for choosing a visible aesthetic property."

In purported support of the above-outlined election requirement, the Examiner makes following distinctness allegations with respect to the groups:

1. Groups I and II are related as product and process of use;
2. Groups I and III are related a process of making and product made;

U.S. Application No. 10/808,568  
Inventor: Vincent DE LAFORCADE  
Attorney Docket No.: 05725.0918-01  
Reply to Office Action dated May 29, 2007

3. Groups I and IV are unrelated;
4. Groups II and III are unrelated;
5. Groups II and IV are unrelated; and
6. Groups III and IV are unrelated.

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Applicant respectfully traverses the election requirement because at least the allegations 3-6, that Groups I, II, III, and IV are unrelated, are inaccurate. According to U.S. Patent and Trademark Office policy, two claims are unrelated only "if there is no disclosed relationship between the inventions, that is, they are unconnected in design, operation, and effect." M.P.E.P. § 806.06. To supply guidance, the M.P.E.P. provides examples of unrelated inventions such as an article of clothing and a locomotive, and a process of painting a house and a process for digging a well. § 806.06(A). Since the subject matter recited in each of Groups I-IV are disclosed as being related to one another, the Examiner's allegations about those groups of claims being unrelated are inaccurate. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the requirement for election between Groups I and IV, the election between Groups II and III, the election between Groups II and IV, and the election between Groups III and IV based on the inaccurate "unrelated" invention allegations.

In addition to the above-outlined requirement to elect one of the four groups of claims, the Examiner has also required election of one of the following two (2) alleged species (i.e., embodiments):

Species I, shown in Fig. 1 and

Species II, shown in Fig. 2.

The Examiner alleges that no claims are generic. Office Action at 5. Applicant respectfully traverses this allegation because at least independent claims 40, 54, 66, 78,

U.S. Application No. 10/808,568  
Inventor: Vincent DE LAFORCADE  
Attorney Docket No.: 05725.0918-01  
Reply to Office Action dated May 29, 2007

80, 90, 91, 96, 115, 120, 121, 122, 123, 129, 135, 146, 169, 182, 183, 195, 207, 208, 209, 219, 220, 225, 236, 241, and 245 are generic to both Figs. 1 and 2. Accordingly, Applicant respectfully requests reconsideration of the allegation concerning a lack of generic claims and requests confirmation that at least the above-listed independent claims are in fact generic to both of the exemplary embodiments shown in Figs. 1 and 2.

In order to fully comply with the Office Action's requirement to elect a single Group and single species for examination, Applicant provisionally elects, with traverse, Group II, claims 40-95 and 169-224, and Species I (Fig. 1). Claims 40-95 and 169-224 "read on" Species I.

The Office Action contains a number of characterizations of the disclosure and the claims with which Applicant does not necessarily agree. Unless expressly noted otherwise, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

The Examiner is invited to call Applicant's undersigned attorney at (404) 653-6559 if a telephone conversation would expedite the prosecution of the above-referenced application.

If there is any fee due in connection with the filing of this response, please charge the fee to our Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: June 29, 2007

By: 

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